

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION AT COLUMBUS**

UNITED STATES OF AMERICA,

Plaintiff, :

Case Nos. 2:14-cr-127, 2:15-cr-80
Civil Case Nos. 2:20-cv-5733, 2:21-cv-1120

Chief Judge Algenon L. Marbley
Magistrate Judge Michael R. Merz

- VS -

ROBERT D. LEDBETTER,

Defendant. :

REPORT AND RECOMMENDATION

The Magistrate Judge reference in this § 2255 proceeding was transferred to the undersigned earlier this year. Upon initial review of the then-pending motions to amend or supplement, the undersigned noted that the original § 2255 Motion had not been signed under penalty of perjury as required by Rule 2(c) of the Rules Governing § 2255 Proceedings. The Court furnished Ledbetter with the language required for the declaration and ordered that it be signed and returned and filed with the Court by April 1, 2022 (ECF No. 1764).

Ledbetter has neither objected to the Order nor signed and returned the Declaration. As the Order pointed out the Declaration under Penalty of Perjury is not a mere formality, but a substantive requirement to ensure the veracity of facts alleged in the § 2255 Motion insofar as the

Defendant knows them (Order, ECF No. 1764, PageID 20354, citing *Benner v. Coyle*, 1999 WL 33453848 (6th Cir. Nov. 1, 1999)).

Defendant failed at the outset to sign the Motion as required by Rule 2(c). He has now refused to comply with a direct court order to correct that deficiency. It is accordingly respectfully recommended that the § 2255 Motion be denied for failure to sign.

April 12, 2022.

s/ *Michael R. Merz*
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Because this document is being served by mail, three days are added under Fed.R.Civ.P. 6, but service is complete when the document is mailed, not when it is received. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. A party may respond to another party's objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. #